

REMARKS

This responds to the Office Action dated January 27, 2005. Claims 1-38 remain pending in this application.

§103 Rejection of the Claims

Claims 1-6, 8-13, 16, 21-24, 26, 27 and 35-37 were rejected under 35 USC § 103(a) as being unpatentable over Brandell (U.S. Patent No. 6,068,651) in view of DeGroot (U.S. Patent No. 5,836,975). Applicant respectfully traverses the rejection, and respectfully submits that the rejection fails to provide a proper *prima facie* case of obviousness for at least the following reasons.

The Office Action argues that the DeGroot device utilizes a timeout period T8 to confirm the validity of the patient activated therapy request, and that this period reads upon Applicant's "therapy request threshold duration." Applicant respectfully disagrees. The language recited in claim 1, for example, indicates that the therapy request is detected upon receipt of a request for at least a therapy request threshold duration. DeGroot states that a request for therapy is received, and the microprocessor then has until the expiration of a time interval, T-8, to confirm that therapy is required (see col. 38 lines 55-57). Applicant is unable to find a showing or fair suggestion in the cited portions of DeGroot that the request for therapy is detected when the request is received for at least a therapy request threshold duration. Applicant cannot find a showing or fair suggestion that the request for therapy (966 in FIG. 17) is received for the duration of the time interval T-8, or even during the time interval T-8.

Regarding Claims 1-6:

With respect to independent claim 1, Applicant cannot find in the cited portions of the proposed combination of Brandell and DeGroot, among other things, either a showing or a fair suggestion of a processor to initiate a delay period in response to a therapy request from an external device and initiate a delivery of the electrical energy after the delay period expires, where the processor is adapted to detect the therapy request upon receipt of a request for at least a therapy request threshold duration, as recited by claim 1. Claims 2-6 depend, either directly or indirectly, on claim 1, and are believed to be in condition for allowance for at least the reasons provided with respect to claim 1.

Regarding claims 8-13, 16:

With respect to independent claim 8, Applicant cannot find in the cited portions of the proposed combination of Brandell and DeGroot, among other things, either a showing or a fair suggestion of a processor adapted to initiate a delay period in response to an external therapy request and initiate a delivery of the electrical energy after the delay period expires, where the processor is adapted to detect the therapy request upon receipt of a request for at least a therapy request threshold duration, as recited in the claim. Claims 9-13 and 16 depend, either directly or indirectly, on claim 8, and are believed to be in condition for allowance for at least the reasons provided with respect to claim 8.

Regarding claims 21-24, 26-27:

With respect to independent claim 21, Applicant cannot find in the cited portions of the proposed combination of Brandell and DeGroot, among other things, either a showing or a fair suggestion of means for detecting a therapy request duration greater than a therapy request threshold duration, as recited or incorporated in the claim. Claims 22-24 and 26-27 depend, either directly or indirectly on claim 21, and are believed to be in condition for allowance for at least the reasons provided with respect to claim 21.

Regarding claims 35-37:

With respect to independent claim 35, Applicant cannot find in the cited portions of the proposed combination of Brandell and DeGroot, among other things, either a showing or a fair suggestion of a method that includes timing a duration during which the magnetic field is detected, and initiating a delay period when the duration exceeds a predetermined threshold, as recited in the claim. Claims 36-37 depend on claim 35 and are believed to be in condition for allowance at least for the reasons provided with respect to claim 35.

Applicant respectfully requests reconsideration and allowance of claims 1-6, 8-13, 16, 21-24, 26, 27 and 35-37.

Allowable Subject Matter

Applicant acknowledges the allowance of claims 28-34.

Claims 7, 14, 15, 17-20 and 38 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant acknowledges the indicated allowability of the dependent claims, but believes that the rejected base claims are allowable at least for the reasons indicated previously.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6960 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 27 day of May, 2005.

Name

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Signature

Paula Suchy